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OFFICE OF PETITIONS

In re Application of :
Reynolds et al. : DECISION ON PETITION
Application No. 10/774,057 :
Filed: February 6, 2004 :
Atty Docket No. 1033-LB1013 :

This is a decision on the PETITION TO WITHDRAW HOLDING OF ABANDONMENT filed February 22, 2005. This petition was recently forwarded to the undersigned for consideration.

The above-identified application became abandoned for failure to file a reply to the Notice to File Missing Parts of Application mailed May 6, 2004. This Office action set a two-month time limit for reply, with extensions of time obtainable under § 1.136(a). No reply considered timely filed and no extension of time considered obtained, the application became abandoned effective July 7, 2004. A courtesy Notice of Abandonment was mailed on January 18, 2005.

In response, applicants promptly filed the instant petition. Applicants contend that a timely response was filed by facsimile transmission on July 6, 2004. In support thereof, applicants submit a copy of the response as filed, a copy of their facsimile confirmation sheet confirming successful transmission, and a copy of the USPTO auto-reply acknowledging receipt of a facsimile transmission sent to 703-746-4060.

Preliminarily, petitioner is reminded that the Office's Centralized Delivery and Facsimile Transmission Policy provides that unless an exception applies, correspondence sent by

facsimile is to be directed to the centralized facsimile number at 571-273-8300. Further, Petitioner's attention is directed to a proposed rule, *Changes to Practice for Documents Submitted to the United States Patent and Trademark Office, Notice of proposed rulemaking*, 73 FR 45662 (August 6, 2008), which may make ineffective facsimile transmissions, such as the one utilized here, received in the Office but directed to facsimile numbers other than the one to which that type of correspondence should be sent.

Petitioner's evidence and arguments have been considered and it is concluded that the requirements of 37 CFR § 1.8(b) have been met. The response (executed declaration and fee transmittal) is considered timely filed by facsimile transmission pursuant to 37 CFR § 1.6(d) on July 6, 2004. It is noted that there is no indication in the record that an unsuccessful attempt was made to charge the fees required to the Deposit Account. Thus, it is concluded that the response was proper.

In view thereof, the Notice of Abandonment mailed January 18, 2005 and the holding of abandonment are hereby withdrawn.

The petition under § 1.181 is GRANTED.

No fee is required on petition under § 1.181.

The Office of Patent Application Processing has been advised of this decision. The application file is, thereby, forwarded for the Office of Patent Application Processing's technical support staff to withdraw the holding of abandonment and for processing of the response (including an executed declaration, payment of fees and supplemental application data sheet) previously filed on July 6, 2004 and resubmitted on petition filed February 22, 2005.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.



Nancy Johnson
Senior Petitions Attorney
Office of Petitions